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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,637	01/06/2004	Andrew John Vogelsang	115096-00103	3101

27557 7590 07/21/2004

BLANK ROME LLP  
600 NEW HAMPSHIRE AVENUE, N.W.  
WASHINGTON, DC 20037

EXAMINER

ZANELLI, MICHAEL J

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 07/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/751,637

Applicant(s)

VOGELANG, ANDREW JOHN

Examiner

Michael J. Zanelli

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 24-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-34 is/are rejected.
- 7) ☒ Claim(s) 35 and 36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This application is acknowledged as a Continuation of S.N. 09/978,637, filed 10/18/01. The preliminary amendment filed 1/6/04 has been entered. Note that the status of claims 1-23 should be designated as "Cancelled", not "Withdrawn" and that the status is relative to the claims as originally filed in the parent application and not relative to the claims as finally allowed. Thus, newly added claims 24-36 are the only currently pending claims.

2. Claims 26, 28 and 29 are objected to because of the following informalities:

A. As per claims 26, 28 and 29, "The vehicle speed sensor" should be --The system-- since the claims further limit the subject matter of the "system" of claim 24. The above change would also make the claims consistent with the other dependent claims.

3. Claims 24-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. As per claim 24, at line 10 the limitation "displaying said electronic signal" appears to be misplaced. It appears that this limitation should be associated with the display recited at line 8, not the data entry device.

B. All claims depending from a rejected base claim are also rejected as containing the same deficiencies.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

Art Unit: 3661

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 24, 25, 31, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ousborne (5,499,182) in view of Ebaugh et al. (5,303,163).

A. As per claims 24, 31 and 33, Ousborne discloses a vehicle monitoring system and method which may be used by parents for driving-age children (col. 1, lines 34-49) or insurance companies in determining insurance premiums (col. 2, lines 26-34). As shown in Fig. 1, the device includes a vehicle mounted computer (20), a vehicle speed sensor (40) and a display/data input device (3). The system records driving information indicative of driving habits such that a parent may determine whether child is driving irresponsibly or an insurance company can base it rates on good/bad driving habits. The display is incorporated in an off-board playback unit (3) which allows one to review the stored driving parameters (i.e., speed). The claimed invention differs in that the display is incorporated into the monitoring device.

B. Ebaugh discloses a vehicle monitoring device which allows a vehicle owner to review recorded vehicle operating parameters (col. 4, line 61 to col. 5, line 2). Fig. 2 shows the monitoring device as a portable, self-contained unit with an integrated display (34). One of ordinary skill in the art would have found it obvious to incorporate the integrated display taught by Ebaugh because it would have eliminated the need to remove the monitoring device and mount it in a playback unit.

C. As per claim 25, as above wherein Ousborne discloses a vehicle speed sensor (40) attached to the vehicle for providing vehicle speed signals.

D. As per claims 34, as above wherein sensed driving parameters (i.e. speed, acceleration, etc.) are monitored and compared to calculate and store peak values (Ousborne, cols. 7-8).

7. Claims 27, 28 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ousborne in view of Ebaugh et al. and Lemelson (5,570,087).

A. As per claims 27, 28 and 32, Ousborne and Ebaugh are applied as above. Ousborne discloses a vehicle speed sensor (40) attached to the vehicle for providing vehicle speed signals. The claimed invention differs in that an accelerometer is used to provide the vehicle speed.

B. At the time of applicant's invention it was known in the art that vehicle speed could be determined through various means. For example, Lemelson discloses a vehicle performance monitor which uses accelerometers to measure vehicle acceleration and to compute at least vehicle speed therefrom (col. 2, lines 40-54). One of ordinary

Art Unit: 3661

skill in the art would have found it obvious to incorporate such teachings as alternatives to the vehicle speed sensor of Ousborne.

8. Claims 26, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over (Ousborne in view of Ebaugh et al.) or (Ousborne in view of Ebaugh et al. and Lemelson), as noted above, in further view of Wilson et al. (6,662,091).

A. Ousborne, Ebaugh and Lemelson are applied as above. The claimed invention differs in that wireless transmitters are used to transmit the vehicle speed signal to the monitoring device.

B. At the time of applicant's invention it was known in the vehicle arts to utilize wireless sensors to provide operating parameters to a computing device. For example, Wilson discloses a vehicle monitoring device which utilizes wireless sensors to transmit vehicle operating parameters to a monitoring device (Figs. 5 and 6). The obvious advantage of using wireless transmitters would have been the reduction of required wiring as well as ease of retrofitting into existing vehicles (col. 1, line 64 to col. 2, line 12).

9. Claims 35 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited patents are of general interest.

Art Unit: 3661

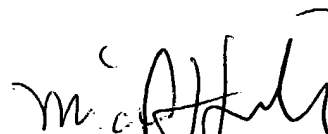
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Zanelli whose telephone number is (703) 305-9756.

The examiner can normally be reached on Monday-Thursday 5:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (703) 305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/mjz

  
MICHAEL J. ZANELLI  
PRIMARY EXAMINER